



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,209	08/29/2003	Mark Anthony Messina	2599-122	7634

6449 7590 02/22/2005

ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
SUITE 800  
WASHINGTON, DC 20005

EXAMINER

SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
----------	--------------

3677

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/651,209

Applicant(s)

MESSINA, MARK ANTHONY

Examiner

Robert J. Sandy

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 29-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 8, 9, 13, 16-19, 22 and 24-26 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7, 10-12, 14, 15, 20, 21, 23, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/29/2003</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

Claims 29-39 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant's election of Group I, consisting of claims 1-28, was made **without** traverse in the reply filed on 7 January 2005.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 26 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. : Claims 26 does not end with a period, and therefore, is considered incomplete, thereby rendering the claim indefinite. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

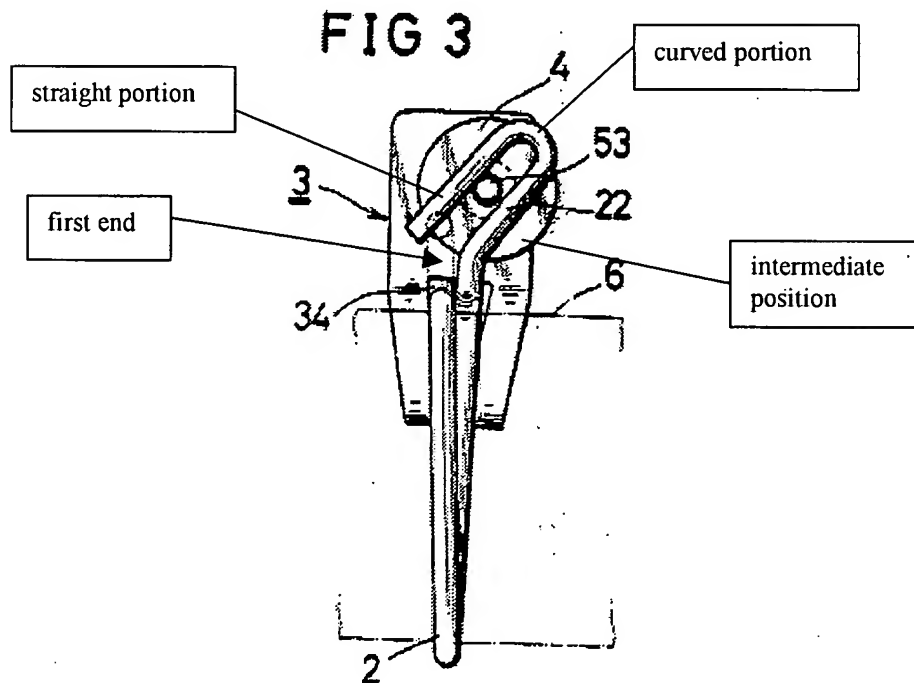
Claims 1-3, 6, 8, 9, 13, 16-19, 22, and 24-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Matsuura (U. S. Patent No. 3,939,535). Matsuura ('535) discloses a clamp comprising: a clamp body comprising: a spring arm (2) extending generally in an arc having a first end (22) and a second end (21); a protrusion (folded back portions at end 21) projecting from said spring arm proximate said second end thereof; and a deflection arm (end structure of end 22) connected at a first end thereof to said first end of said spring arm and having a second end (distal end of edd 22 structure) disposed in spaced relation with respect to said protrusion,

Art Unit: 3677

said deflection arm being constructed and arranged such that relative movement of said protrusion and said second end of said deflection arm away from each other effects a corresponding circumferential contraction of said spring arm and relative movement of said protrusion and said second end of said deflection arm toward each other effects a corresponding circumferential expansion of said spring arm; and an actuating device (3, 4, 5) engaged with said protrusion and said deflection arm and constructed and arranged to, upon manipulation thereof, effect relative movement of said protrusion and said second end of said deflection arm with respect to each other to thereby cause a corresponding circumferential contraction or expansion of said spring arm;

(concerning claims 2 and 18) the spring arm has an angular extent of about 270-300 degrees between said first and second ends thereof;

(concerning claims 3 and 19) the deflection arm includes a curved portion (shown in Fig. 3) extending from said first end thereof to an intermediate position along said deflection arm and a straight portion extending from said intermediate position to said second end of said deflection arm.



(concerning claims 6 and 22) the clamp body comprises a single, integral piece of material;

(concerning claim 8) the actuating device comprises a threaded rod (51) extending between and engaged with said deflection arm, proximate said second end thereof, and said protrusion;

(concerning claim 9) said threaded rod (53) extends through a first hole formed through said deflection arm proximate said second end thereof;

(concerning claim 13) threaded rod is arranged such that it is substantially parallel to an imaginary axis extending through a center of curvature of said spring arm and bisecting a gap between said first and second ends of said spring arm;

(concerning claim 24) the actuating means (5) comprises a means (4, 31) for engaging with said deflection arm and said protrusion and for forcing said deflection arm and said protrusion away from one another and for allowing said deflection arm and said protrusion to move toward one another, in order to respectively increase or decrease said circumferential contraction of said spring arm means;

(concerning claim 25) the spring arms generates a force between said deflection arm and said protrusion opposing a force applied by said actuating mean; and

(concerning claim 26, so far as definite) the actuating means comprises a threaded rod (51), said deflection arm comprises a hole (through which 53 extends therethrough) with which said threaded rod engages said deflection arm, and said protrusion includes an engagement means (35) for accepting an end of said threaded rod to allow said threaded rod to force said deflection arm and said protrusion away from one another, or allow said deflection arm and said protrusion to move toward one another.

#### *Allowable Subject Matter*

Claims 4, 5, 7, 10-12, 14, 15, 20, 21, 23, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Art Unit: 3677

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 703-305-7413. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ROBERT J. SANDY  
PRIMARY EXAMINER

Robert J. Sandy  
Primary Examiner  
Art Unit 3677